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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/F/3R

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04/23/2015 02:28 PM

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Senator Abruzzo moved the following:

Senate Amendment (with title amendment)

Delete lines 98 - 284

and insert:

2. If the estoppel certificate is requested in conjunction with the sale or refinancing of a unit, and if the fee has not been paid in advance, the fee for the certificate shall be paid to the association from the closing or settlement proceeds. The fee for the certificate is the obligation of the unit owner, and the association may collect the fee in the same manner as an assessment against the unit. An association may not require the



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12 payment of any other fees as a condition for the preparation or
13 delivery of an estoppel certificate. The association may not
14 condition the delivery of an estoppel certificate on the payment
15 of the estoppel fee before closing.

16 ~~(f)(d) The authority to charge a fee for the estoppel~~
17 ~~certificate must ~~shall~~ be established by a written resolution~~
18 ~~adopted by the board or provided by a written management,~~
19 ~~bookkeeping, or maintenance contract and is payable upon the~~
20 ~~preparation of the certificate. If the certificate is requested~~
21 ~~in conjunction with the sale or mortgage of a unit but the~~
22 ~~closing does not occur and no later than 30 days after the~~
23 ~~closing date for which the certificate was sought the preparer~~
24 ~~receives a written request, accompanied by reasonable~~
25 ~~documentation, that the sale did not occur from a payor that is~~
26 ~~not the unit owner, the fee shall be refunded to that payor~~
27 ~~within 30 days after receipt of the request. The refund is the~~
28 ~~obligation of the unit owner, and the association may collect it~~
29 ~~from that owner in the same manner as an assessment as provided~~
30 ~~in this section.~~

31 Section 2. Subsection (6) of section 719.108, Florida
32 Statutes, is amended to read:

33 719.108 Rents and assessments; liability; lien and
34 priority; interest; collection; cooperative ownership.—

35 (6) An association shall issue an estoppel certificate to a
36 unit owner or the unit owner's designee or a unit mortgagee or
37 the unit mortgagee's designee within 10 business 15 days after
38 receiving a written or electronic request for the certificate.
39 The estoppel certificate must be delivered by mail, by hand
40 delivery, or by electronic means to the requester on the date of



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41 issuance.

42 (a) The estoppel certificate must contain all of the
43 following:

44 1. The date of issuance.

45 2. The amount of all assessments and other moneys owed to
46 the association by the unit owner for a specific unit on the
47 date of issuance. This amount is limited to the amounts
48 authorized to be recorded in the official records of the
49 association under s. 719.104(2).

50 3. The amount of any additional assessments and other
51 moneys that are scheduled to become due for each day after the
52 date of issuance for the 30-day or 35-day effective period of
53 the estoppel certificate. This amount is limited to the amounts
54 authorized to be recorded in the official records of the
55 association under s. 719.104(2). In calculating the amounts that
56 are scheduled to become due, the association may assume that any
57 delinquent amounts will remain delinquent during the effective
58 period of the estoppel certificate.

59 4. The amount of any fee charged by the association for
60 preparing and delivering the estoppel certificate. This fee is
61 in addition to any other amounts on the estoppel certificate.

62 5. The signature of an officer or agent of the association.

63 (b) An estoppel certificate that is delivered on the date
64 of issuance has a 30-day effective period. An estoppel
65 certificate that is mailed to the requester has a 35-day
66 effective period.

67 (c) An association waives the right to collect any moneys
68 owed in excess of the amounts specified in the estoppel
69 certificate from any person who in good faith relies upon the



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70 estoppel certificate and from that person's successors and
71 assigns.

72 (d) A summary proceeding pursuant to s. 51.011 may be
73 brought to compel compliance with this subsection, and in any
74 such action the prevailing party is entitled to recover
75 reasonable attorney fees by a unit owner or mortgagee, the
76 association shall provide a certificate stating all assessments
77 and other moneys owed to the association by the unit owner with
78 respect to the cooperative parcel. Any person other than the
79 unit owner who relies upon such certificate shall be protected
80 thereby.

81 (e)1. Notwithstanding any limitation on transfer fees
82 contained in s. 719.106(1)(i), an the association or its
83 authorized agent may charge a reasonable fee, which may not
84 exceed its reasonable costs to prepare and deliver for the
85 preparation of the estoppel certificate. However, the fee for
86 the estoppel certificate may not exceed \$200 if on the date the
87 certificate is issued, no delinquent amounts are owed to the
88 association for the applicable unit. If an estoppel certificate
89 is requested on an expedited basis and delivered within 3
90 business days after the request, the association may charge an
91 additional fee of \$100. If delinquent amounts are owed to the
92 association for the applicable unit, an additional fee for the
93 estoppel certificate may not exceed \$200. The association may
94 not charge a fee for an estoppel certificate that is issued more
95 than 10 business days after it receives a request for the
96 certificate. The maximum allowable fees charged in accordance
97 with this section shall be adjusted every 3 years in an amount
98 equal to the annual increases for that 3-year period in the



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99 Consumer Price Index for All Urban Consumers, U.S. City Average,
100 all items.

101 2. If the estoppel certificate is requested in conjunction
102 with the sale or refinancing of a unit, and if the fee has not
103 been paid in advance, the fee for the certificate shall be paid
104 to the association from the closing or settlement proceeds. The
105 fee for the certificate is the obligation of the unit owner, and
106 the association may collect the fee in the same manner as an
107 assessment against the unit. An association may not require the
108 payment of any other fees as a condition for the preparation or
109 delivery of an estoppel certificate. The association may not
110 condition the delivery of an estoppel certificate on the payment
111 of the estoppel fee before closing.

112 (f) The authority to charge a fee for the estoppel
113 certificate must be established by a written resolution adopted
114 by the board or provided by a written management, bookkeeping,
115 or maintenance contract.

116 Section 3. Section 720.30851, Florida Statutes, is amended
117 to read:

118 720.30851 Estoppel certificates.—An association shall issue
119 an estoppel certificate to a parcel owner or the parcel owner's
120 designee or a mortgagee or the mortgagee's designee within 10
121 business ~~15~~ days after receiving a written or electronic request
122 for the certificate. The estoppel certificate must be delivered
123 by mail, by hand delivery, or by electronic means to the
124 requester on the date of issuance.

125 (1) The estoppel certificate must contain all of the
126 following:

127 (a) The date of issuance.



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128 (b) The amount of all assessments and other moneys owed to
129 the association by the parcel owner for a specific parcel as
130 recorded on the date of issuance. This amount is limited to
131 amounts authorized by statute to be recorded in the official
132 records of the association under s. 720.303(4).

133 (c) The amount of any additional assessments and other
134 moneys that are scheduled to become due for each day after the
135 date of issuance for the 30-day or 35-day effective period of
136 the estoppel certificate. This amount is limited to amounts
137 authorized by statute to be recorded in the official records of
138 the association under s. 720.303(4). In calculating the amounts
139 that are scheduled to become due, the association may assume
140 that any delinquent amounts will remain delinquent during the
141 effective period of the estoppel certificate.

142 (d) The amount of any fee charged by the association for
143 preparing and delivering the estoppel certificate. This fee is
144 in addition to any other amounts on the certificate.

145 (e) The signature of an officer or agent of the
146 association.

147 (2) An estoppel certificate that is delivered on the date
148 of issuance has a 30-day effective period. An estoppel
149 certificate that is mailed to the requester has a 35-day
150 effective period.

151 (3) An association waives the right to collect any moneys
152 owed in excess of the amounts specified in the estoppel
153 certificate from any person who in good faith relies upon the
154 estoppel certificate and from that person's successors and
155 assigns the date on which a request for an estoppel certificate
156 is received from a parcel owner or mortgagee, or his or her



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157 ~~designee, the association shall provide a certificate signed by~~
158 ~~an officer or authorized agent of the association stating all~~
159 ~~assessments and other moneys owed to the association by the~~
160 ~~parcel owner or mortgagee with respect to the parcel. An~~
161 ~~association may charge a fee for the preparation of such~~
162 ~~certificate, and the amount of such fee must be stated on the~~
163 ~~certificate.~~

164 ~~(1) Any person other than a parcel owner who relies upon a~~
165 ~~certificate receives the benefits and protection thereof.~~

166 ~~(4)(2)~~ A summary proceeding pursuant to s. 51.011 may be
167 brought to compel compliance with this section, and the
168 prevailing party is entitled to recover reasonable attorney
169 attorney's fees.

170 (5) (a) An association or its agent may charge a fee, which
171 may not exceed its reasonable costs to prepare and deliver the
172 estoppel certificate. However, the fee for the estoppel
173 certificate may not exceed \$200 if on the date the certificate
174 is issued, no delinquent amounts are owed to the association for
175 the applicable parcel. If an estoppel certificate is requested
176 on an expedited basis and delivered within 3 business days after
177 the request, the association may charge an additional fee of
178 \$100. If delinquent amounts are owed to the association for the
179 applicable parcel, an additional fee for the certificate may not
180 exceed \$200. The association may not charge a fee for an
181 estoppel certificate that is issued more than 10 business days
182 after it receives the request for the certificate. The maximum
183 allowable fees charged in accordance with this section shall be
184 adjusted every 3 years in an amount equal to the annual
185 increases for that 3-year period in the Consumer Price Index for



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186 All Urban Consumers, U.S. City Average, all items.

187 (b) If the estoppel certificate is requested in conjunction
188 with the sale or refinancing of a parcel, and if the fee has not
189 been paid in advance, the fee for the certificate shall be paid
190 to the association from the closing or settlement proceeds. The
191 fee for the certificate is the obligation of the parcel owner,
192 and the association may collect the fee in the same manner as an
193 assessment against the parcel. An association may not require
194 the payment of any other fees as a condition for the preparation
195 or delivery of an estoppel certificate. The association may not
196 condition the delivery of an estoppel certificate on the payment
197 of the estoppel fee before closing.

198
199 ===== T I T L E A M E N D M E N T =====

200 And the title is amended as follows:

201 Between lines 15 and 16

202 insert:

203 prohibiting an association from conditioning the
204 delivery of an estoppel certificate on the payment of
205 an estoppel fee before closing;